

Neutral Citation No: [2023] NIKB 134	Ref: McA12356
<i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i>	ICOS No: 23/53964
	Delivered: 01/12/2023

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

**DONNA SANDS
and
NEIL SANDS**

Plaintiffs

v

**SEBASTIAN BOND, YUZU ZEST LIMITED, KUMQUAT TREE LIMITED
OPERATING AS "TATTLE LIFE"**

Defendants

**Mr Girvan KC (instructed by Gately Tweed Solicitors) for the Plaintiffs
The Defendants were unrepresented**

McALINDEN J

Introduction

[1] The papers in this case make very upsetting reading. Before the court is a young couple who are trying to do their best in life which includes running their separate businesses. Sadly, there appears to be a dispute between one of the plaintiffs and her sister in respect of one of these businesses but, be that as it may, the way in which the plaintiffs have been vilified by anonymous posters to this Tattle Life website is quite appalling. This should not happen and there should be a speedy way to get to the bottom of these incidents with a view to closing these sites down and preventing such online vilification and abuse being perpetrated over a significant period of time and even being perpetrated after court proceedings have been issued. Unfortunately, the impenetrable nature of the internet and the ability of these individuals to post anonymously are worrying matters which conspire to prevent speedy justice being achieved in cases of this nature.

[2] I am convinced that through dint of effort by the plaintiffs and by their legal representatives, a day of reckoning will come for those behind Tattle Life and for

those individuals who posted on Tattle Life. In order to hasten that day of reckoning, it is appropriate that the court makes an award of damages to each plaintiff in in this case.

[3] The court has been greatly assisted by Mr Girvan's skeleton argument and by the bundle of authorities that support the propositions put forward in the skeleton argument. I record that the proceedings were issued and served pursuant to an order by Mr Justice Friedman on 28 June 2023. I then record that judgment was entered in early September 2023 by reason of the failure of the defendants to enter appearances to the writ of summons and/or to serve defences to the statement of claim. Despite judgment being entered and despite final orders being made in respect of the injunctions sought, there have been posts following the date of those orders. The posts when viewed in their entirety utterly trash the reputations of both the plaintiffs in this case. They are entitled to damages for their loss of reputation and for the on-line harassment that obviously has taken place in this instance in clear breach of the provisions of the statute.

[4] The authorities in the case indicate that, where possible, a global award should be made in relation to the defamation and harassment injuries suffered and the court intends to adopt that course of action having regard to the helpful guidance set out in the authorities, including the *Triad* decision.

[5] The manner in which these torts have been inflicted on the plaintiffs clearly entitles them to an award of general damages and aggravated damages. The global figure that the court determines is the appropriate global figure in this case in respect of general damages and aggravated damages for each plaintiff reflects the conclusion that it is impossible to differentiate between the two plaintiffs in these cases. They have both been grossly defamed and severely harassed by these posts. The destruction of reputation and the harassment has caused very severe upset and distress. The figure must take into account the nature of the publication. The publication is in the form of an on-line thread in Tattle Life, and I note the number of visits that this site has in respect of annual and monthly estimates. The annual and monthly estimates are quite large, but it is difficult to say how many individuals have actually viewed this particular thread, as opposed to visiting the site itself. In terms of the ease with which this thread was and remains accessible, I was able, by means of the material set out in the affidavits, to simply put in a name in a commonly used search engine and this particular thread immediately emerged; so it is readily accessible and remains readily accessible to those with internet access.

[6] In the circumstances, bearing in mind the availability of easy access to this particular thread, bearing in mind the particularly damaging nature of the material posted, bearing in mind the absolutely callous disregard for the hurt and harm caused by these posts, bearing in mind the duration over which this thread has remained in place, bearing in mind the fact that it has remained in place even after proceedings were issued in this case, even after judgment was entered, I think the appropriate figure in respect of both plaintiffs must be substantial, with each

individual plaintiff being entitled to an award of £75,000 damages for general damages and aggravated damages.

[7] The court then has to come to look at the issue of exemplary damages in this case and, again, the court is greatly assisted by the skeleton argument in this case and the authorities bundle. The case of *Elton John*, which is quite an old case now, sets out the principles which have to be applied in respect of an award of exemplary damages in a defamation action. If ever there was a case in which exemplary damages should be awarded, then this is such a case. This is a site which has been set up to facilitate the deliberate infliction of hurt and harm on others. Its very nature is to allow anonymous trashing of people's reputations and the people facilitating this are making money out of it. I find they are protecting their income streams by protecting the identity of the individual posters and making it practically impossible without spending significant sums of money for individuals hurt and harmed by such posting to identify who is behind such vile abuse and such defamatory statements. This is clearly a case of peddling untruths for profit. It is the exercise of extreme cynicism, the calculated exercise of extreme cynicism which in reality constitutes behaviour which is solely aimed at making profit out of people's misery under the pretext of exposing or calling out so called "influencers."

[8] In the court's view, the appropriate award for exemplary damages in this case in respect of each plaintiff is also the sum of £75,000 each. The court makes an award of £75,000 each in respect of general and aggravated damages and an additional award in respect of each plaintiff in the sum of £75,000 by way of exemplary damages. In terms of the issue of costs, again, this is a situation where the defendants in this case are and continue to act in such a contemptuous manner that it is entirely appropriate to award costs on an indemnity basis. In fact, it would be remiss of the court to award costs on any other basis other than indemnity costs. The decrees in this case will be in the sum of £150,000 damages in each instance with the plaintiffs being entitled to their costs, such costs to be taxed in default of an agreement on an indemnity basis.